

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTIETH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 15800 of 2005

Between:

Rev. Dr. K. Swatantra Kumar, s/o. Late Vijayawada Ratnam,
Christain Missionary, D.No. 74-14-18, Prakash Nagar, Rajghmundry,
E.G.District.

..... PETITIONER

AND

1. The Government of A.P., rep. by its Secretary, Revenue (Assignment)
Dept., Secretariat, Hyderabad.
- 2 The District Collector, E.G.District, Kakinada.
- 3 The Mandal Revenue Officer, Rajahmundry, E.G.District.
- 4 The Chairman, Municipal Council, Rajahmundry.
- 5 The Superintendent of Police, Vigilance and Enforcement Department,
Rajahmundry.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or direction declaring the impugned action of the Respondents 1 to 4 trying to recover money from the Petitioner for a higher extent of land than in possession, after providing for offsets for roads in the Master plan and also at market rates prevalent in the year 1996 even though a policy decision was taken in the year 1990 even without disposing my representation dt. 20.01.2002 as illegal, arbitrary and violative of principles of natural

justice etc and consequently direct the 1st respondent to issue a fresh GO re-fixing the proper rate to be charged from the petitioner after considering all the points raised in the representation dt. 20.01.2002 and grant such other just and consequential relief or reliefs as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.N.V.ANANTHA KRISHNA

Counsel for the Respondent Nos. 1 to 3: GP FOR REVENUE

Counsel for the Respondent No.4: Mr. A. VISHNUVARDHAN REDDY

Counsel for the Respondent No.5: GP FOR HOME

The Court, at the stage of admission, made the following:

Oral order:-

This writ petition is filed seeking a declaration of the impugned action of the respondent Nos. 1 to 4 in trying to recover money from the petitioner for a higher extent of land than in possession, after providing for offsets for roads in the Master Plan and also at market rates prevalent in the year 1996, even though a policy decision was taken in the year 1990 even without disposing the representation dated 20-01-2002, as illegal and violative and consequently direct the 1st respondent to issue a fresh Government Order re-fixing the proper rate to be charged from the petitioner after considering all the points raised in the representation dated 20-01-2002.

It is the case of the petitioner that that the petitioner is a Christian Missionary operating in Rajahmundry to serve the downtrodden and weaker section of the society with free education, spiritual knowledge etc., The petitioner is in possession of certain piece of land in R.S.No. 257 of Danavaipeta Cheruvu area in Rajahmundry town, which is a tank poramboke, since 1968. The petitioner also constructed permanent buildings for the purpose of school, orphanage, children home and a church. The petitioner imparts free education to children irrespective of caste, creed and religion, apart from other social works. On a representation made by the petitioner, the 4th respondent's council passed a resolution dated 31-10-1990 for alienation of land measuring 1301 Sq. yards in R.S.No. 257, after following the requisite formalities. It is submitted that the actual measurement of the land was Ac.0-43 cents (equivalent to 2064yards) in R.S.No. 257, keeping in view the master plan and the proposed road widening, left 40 feet on the northern side and 60 feet on the eastern side, resulting in the remaining piece of land equivalent to 1301 Sq. yards. Since the Municipal council passed the resolution, the 1st respondent issued G.O.Ms.No. 77 (Revenue (Asn-I) Department dated 28-01-1999 stipulating that the market value of the land prevailing in the year 1996 be collected i.e., at the rate of Rs.1,000-00 per square yard. Aggrieved by such issuance of government order, petitioner made many oral requests and gave a representation on 20-01-2002 seeking reduction in the market value of the land and issuance of a new Government Order for alienation of 1301 Sq. yards in favour of the petitioner. It is

further averred that the value of the land should be alienated in favour of the petitioner at concessional rate since the petitioner is running non-remunerative educational institutions and that when the 4th respondent passed the resolution in the year 1990, it is highly arbitrary to apply the rates prevailing in the year 1996. While the representation of the petitioner is pending, the 5th respondent through his letter dated 28-06-2005 called to furnish the reasons for non-payment of Rs.20,84,210-00 for 2084.21 Sq. yards of government site as fixed by the Government. The further allegation is that measurement is incorrectly mentioned in the said letter.

The case of the petitioner is that it is in possession of the land in an extent of 1301 Sq. yards in R.S.No.257 of Danavaipeta Cheruvu in Rajahmundry since 1968. It is stated that the actual extent of land is Ac.0-43 cents (equivalent to 2064 Sq. yards). The land left towards northern side is 40 Ft., while on eastern side 60 Ft. of land, for the purpose of road widening, thereby the remaining land available would be only 1301 Sq. yards, is the contention of the petitioner. While so, the respondents issued G.O.Ms.No. 77 Revenue (Asn-I) Department dated 28-01-1999 for collection of amount for the entire extant of land i.e., Ac.0-43 cents (equivalent to 2064 Sq. yards). However, the actual extent it is in possession, as stated by the petitioner, is only 1301 Sq. yards. The next contention is that the Municipal Council has passed resolution in the year 1990, but the respondents issued Government Order to collect the amount from the petitioner prevailing the value of the land in the year 1996. The representation dated 20-01-2002 of the petitioner, it is stated, is still pending with the respondents. According to the petitioner, petitioner is in occupation of the land in question since 1968 without payment of any rent till date.

Considering the facts and circumstances of the case, I deem it appropriate to dispose of the writ petition directing the petitioner to deposit an amount of Rs.10,00,000-00 (Rupees ten lakhs only) with the respondents within a period of eight (8) weeks from today, and the respondents, on such deposit, are further directed to consider and dispose of the representation dated 20-01-2002 of the petitioner and pass appropriate orders, in accordance with law, within a period of twelve (12) weeks from the date of receipt of a copy of this order. The writ petition is accordingly disposed of. No costs.

ELIPE DHARMA RAO, J

Dt. 20-07-2005

Pvks/*

To

1 The Secretary, Revenue (Assignment) Dept., Government of

A.P., Secretariat, Hyderabad.

2 The District Collector, E.G.District, Kakinada.

3 The Mandal Revenue Officer, Rajahmundry, E.G.District.

4 The Chairman, Municipal Council, Rajahmundry.

5 The Superintendent of Police, Vigilance and Enforcement Department,

Rajahmundry.

6. 2 CCs., to the learned Government Pleader for Revenue, A.P. High Court
Buildings, Hyderabad (OUT)

7. 2 CCs., to the learned Government Pleader for Home, A.P. High Court
Buildings, Hyderabad (OUT).

8 2 CD copies

9 1 CC to MR.ANANTHA KRISHNA

10 1 CC to MR.VISHNU VARDHAN REDDY

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